



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

Emily E. Helm
Director of Legal Services
Texas Youth Commission
P.O. Box 4260
Austin, Texas 78765

OR96-0238

Dear Ms. Helm:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38387.

The Texas Youth Commission (the "commission") received a request for all documentation concerning the requestor's son from date of admission. You contend that the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that section 552.101, in conjunction with section 61.073 of the Texas Human Resources Code, makes the requested information confidential. Section 61.073 provides:

The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control. These records are not public and are available only according to the provisions of Section 58.005, Family Code.

Section 58.005(a) of the Family Code provides:

Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having

custody of the child under order of the juvenile court may be disclosed only to:

- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child;
- (4) a governmental agency if the disclosure is required or authorized by law;
- (5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or
- (7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Reading these sections together, we conclude that all records in the possession of the commission which reflect examinations, and conclusions based on those examinations, and all orders concerning the disposition or treatment of the child, as well as all information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of the child are not public information and may be disclosed only in accordance with section 58.005.¹ Having reviewed the records submitted to this office, we conclude that these records must be withheld pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

¹You do not indicate that the requestor is an attorney for the child or that the requestor has leave of the juvenile court presiding over this case in order to gain access to these records under either § 58.005(a)(3) or § 58.005(a)(7).

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal line extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/ch

Ref: ID# 38387

Enclosures: Submitted documents

cc: Ms. Vanessa K. Ralph
2632 Sherry Street
Arlington, Texas 76014
(w/o enclosures)